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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

DENNIS MONTGOMERY, an individual; and MONTGOMERY FAMILY TRUST, a California Trust,

CASE NO.: 3:06-cv-00056-PMP-VPC  
and  
3:06-cv-00145-PMP-VPC

Plaintiff,

V.

ETREPPID TECHNOLOGIES, L.L.C., a Nevada Limited Liability Company; WARREN TREPP, an individual; DEPARTMENT OF DEFENSE of the UNITED STATES OF AMERICA; and DOES 1 through 10,

## Defendants.

## AND ALL RELATED CASE(S)

1                   **REPLY MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

2                   The Government's Opposition (Doc. #1232) to Michael Lindell's Motion (Doc.  
 3 #1216) takes the position that Mr. Lindell "is not subject to the protective order entered in  
 4 this case," that the "protective order does not apply to any litigation but the above-captioned  
 5 cases in which it was entered," that "[t]he Protective Order's prohibitions applied only to  
 6 'discovery or disclosure . . . during all proceedings in these actions,' that "the Protective  
 7 Order does not bind Lindell in any way," that "[t]he express terms of the Protective Order  
 8 present no barrier to [Mr. Lindell's] use of the "information that Lindell has specifically  
 9 indicated he needs," that "the Protective Order entered in this case from which Lindell seeks  
 10 relief has no relevant effect on the defamation litigation or his ability to obtain or use any  
 11 information he needs therein," and that "the Order had nothing to do with the 2020 election  
 12 or alleged fraud therein." Opp. at 1, 1, 3, 6, 6, 7, 11. Mr. Lindell accordingly requests the  
 13 Court enter an Order confirming and adopting the Government's representations on these  
 14 specific matters.

15                  Mr. Lindell has standing to bring his Motion because he is concerned that his use of  
 16 information received from party Dennis Montgomery might run afoul of the Protective Order  
 17 (Doc. #253) and he seeks to avoid that outcome. "The courts have widely recognized that the  
 18 correct procedure for a nonparty to challenge a protective order is through intervention for  
 19 that purpose." United Nuclear Corp. v. Cranford Ins. Co., 905 F.2d 1424, 1427 (10th Cir.  
 20 1990). "[T]here is ample support for intervenor's argument that courts also recognize Rule  
 21 24(b) intervention as a proper method to modify a protective order." Beckman Indus., Inc. v.  
 22 Int'l Ins. Co., 966 F.2d 470, 472 (9th Cir. 1992). The Government chides Mr. Lindell for  
 23 taking the cautionary step of bringing his Motion, though the Government previously  
 24 asserted the Protective Order applied to separate litigation in the Central District of  
 25  
 26  
 27  
 28

1 California. Id. Ex. 13 at 17:2-4, 21:17-18 (“I’m here to enforce the terms of the United States  
 2 protective order”). Further, the Government has asserted in communications concerning Mr.  
 3 Montgomery that the state secret privilege continues to remain in effect regarding Mr.  
 4 Montgomery’s information. Decl. of Dennis Montgomery ¶ 24 & Ex. 10, 11 (Doc. #1216-  
 5 2). Entry of an Order confirming and adopting the positions taken by the Government in its  
 6 Opposition, quoted above, will address Mr. Lindell’s concerns about the Government’s prior  
 7 communications and prevent the Government from taking further inconsistent positions in  
 8 the future.

## 10 CONCLUSION

11 Mr. Lindell requests an Order from the Court stating:

12 1. Mr. Lindell is not subject to the Protective Order entered in this case and it does  
 13 not bind him in any way. The Protective Order presents no barrier to Mr. Lindell’s use of  
 14 information obtained from Dennis Montgomery.

16 2. The Protective Order does not apply to any litigation except the above-captioned  
 17 cases in which it was entered. The Protective Order has no relevant effect on any defamation  
 18 litigation involving Mr. Lindell. The Protective Order does not affect Mr. Lindell’s ability to  
 19 obtain or use any information in any defamation litigation. The Protective Order has nothing  
 20 to do with the 2020 election or alleged fraud therein.

21 3. The Protective Order’s prohibitions apply only to discovery or disclosure during  
 22 all proceedings in the above-captioned actions.

24 DATED: October 21<sup>st</sup>, 2022

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**CERTIFICATE OF SERVICE**

Pursuant to F.R.C.P. 5(b), I hereby certify that I am an employee of JENNINGS & FULTON, LTD., and that on the 21<sup>st</sup> day of October 2022, I caused a true and correct copy of the foregoing **REPLY MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**, to be served as follows:

by depositing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, enclosed in a sealed envelope; or

by facsimile transmission, pursuant to E.D.C.R. 7.26, as indicated below; or

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